IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1899 OF 2005

Sharad Vinayak Sapre. ... . Petitioner.
Versus
Rupee Co-operataive Bank Ltd. & Anr. ..... Respondents.

Mr. Manoj Nayak for the Petitioner.
None for the Respondents.

CORAM: DALVEER BHANDARI, C.J. &
S. A. BOBDE, J.

DATED : MAY 3, 2005.

P.C. :

The petitioner has challenged a notice dated 10th March, 2005 issued by the Respondent No.1, Rupee Co-operative Bank Limited under Section 13(4) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 for taking possession of the secured assets mentioned therein i.e. piece of land admeasuring about 78.4 sq. mtrs. in a building.

2. This notice was preceded by a notice under Section 13 (2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 dated 5th November, 2004 which the petitioner failed to comply with. According to the learned Counsel for the petitioner, the notice is wholly illegal and void since he has no concern with the loan for the recovery of which the notice is issued. The notice is in respect of recovery of loan given to one Sandeep V. Oak. The petitioner has apparently admitted, vide a letter dated 21st August, 2002, that he had mortgaged his property against an additional cash credit loan of Rs.80 lacs to be advanced to Sandeep Oak but claimed that the loan was not disbursed. His contention is that the Deed of Mortgage dated 26th May, 1999 is redundant, infructuous and unenforceable.

3. Having regard to the fact that an appeal is provided under Section 17 against the measures referred to in sub-section (4) of section 13 of the Act, one of which is a notice for possession

and having regard to the nature of the dispute raised by the petitioner, we find no merit in this petition. No interference by this Court in exercise of its extra ordinary jurisdiction under Article 226 of the Constitution of India is called for. This petition is, accordingly, dismissed.

4. All contentions of the petitioner before the appropriate court are left open.

Sd/-

CHIEF JUSTICE

Sd/-

S. A. BOBDE, J.